

1 **Rule 11. The record on appeal.**

2 (a) **Composition of the record on appeal.** The record on appeal consists of the original
3 papers documents and exhibits filed in or considered by ~~in~~ the trial court, including the
4 presentence report in criminal matters, and the transcript of proceedings, if any, ~~the~~
5 ~~index prepared by the clerk of the trial court, and the docket sheet, shall constitutes the~~
6 ~~record on appeal in all cases. A copy of the record certified by the clerk of the trial court~~
7 ~~to conform to the original may be substituted for the original as the record on appeal.~~
8 ~~Only those papers prescribed under paragraph (d) of this rule shall be transmitted to~~
9 ~~the appellate court.~~

10 (b) Preparing, paginationg, and indexing ofthe record.

11 (1) Preparing the record. ~~Immediately upon filing of the notice of appeal~~ On the
12 appellate court's request, ~~the clerk of the trial court clerk shall will securely~~
13 ~~fasten the record in a trial court case file, with collation~~ prepare the record in the
14 following order:

15 ~~(A) the index prepared by the clerk;~~

16 ~~(B) the docket sheet;~~

17 ~~(CA)~~ all original papers documents in chronological order;

18 ~~(DB)~~ all published depositions in chronological order;

19 ~~(EC)~~ all transcripts prepared for appeal in chronological order;

20 ~~(FD)~~ a list of all exhibits offered in the proceeding; and

21 ~~(GE)~~ in criminal cases, the presentence investigation report.

22 (2) Pagination.

23 (A) ~~The clerk shall mark the bottom right corner of every page of the~~
24 ~~collated index, docket sheet, and all original papers as well as~~ Using
25 Bates numbering, the entire record must be paginated. ~~the cover page~~
26 ~~only of all published depositions and the cover page only of each volume~~

27 ~~of transcripts constituting the record with a sequential number using one~~
28 ~~series of numerals for the entire record.~~

29 (B) If the appellate court requests a supplemental record ~~is forwarded to~~
30 ~~the appellate court~~, the clerk shall collate same procedures as in (b)(2)(A)
31 apply, continuing Bates numbering from the last page number of the
32 original record. ~~the papers, depositions, and transcripts of the~~
33 ~~supplemental record in the same order as the original record and mark the~~
34 ~~bottom right corner of each page of the collated original papers as well as~~
35 ~~the cover page only of all published depositions and the cover page only~~
36 ~~of each volume of transcripts constituting the supplemental record with a~~
37 ~~sequential number beginning with the number next following the number~~
38 ~~of the last page of the original record.~~

39 (3) Index. ~~The clerk shall prepare a~~ A chronological index of the record must
40 accompany the record on appeal. The index ~~shall~~ must identify ~~contain a~~
41 ~~reference to~~ the date of filing and starting page of ~~on which~~ the document ~~paper,~~
42 ~~deposition or transcript.~~ was filed in the trial court and the starting page of the
43 ~~record on which the paper, deposition or transcript will be found.~~

44 (4) Examining the record. ~~Clerks of the trial and a~~ Appellate courts ~~clerks~~
45 ~~shall~~ will establish rules and procedures for parties to ~~checking~~ out the record
46 after pagination. ~~for use by the parties in preparing briefs for an appeal or in~~
47 ~~preparing or briefing a petition for writ of certiorari.~~

48 ~~(c) Duty of appellant.~~ ~~After filing the notice of appeal, the appellant, or in the event~~
49 ~~that more than one appeal is taken, each appellant, shall comply with the provisions of~~
50 ~~paragraphs (d) and (e) of this rule and shall take any other action necessary to enable~~
51 ~~the clerk of the trial court to assemble and transmit the record. A single record shall be~~
52 ~~transmitted.~~

53 ~~(d) Papers on appeal.~~

54 ~~(1) Criminal cases. All of the papers in a criminal case shall be included by the~~
55 ~~clerk of the trial court as part of the record on appeal.~~

56 ~~(2) Civil cases. Unless otherwise directed by the appellate court upon sua sponte~~
57 ~~motion or motion of a party, the clerk of the trial court shall include all of the~~
58 ~~papers in a civil case as part of the record on appeal.~~

59 ~~(3) Agency cases. Unless otherwise directed by the appellate court upon sua~~
60 ~~sponte motion or motion of a party, the agency shall include all papers in the~~
61 ~~agency file as part of the record.~~

62 **(ec) The transcript of proceedings; duty of appellant to order; notice to appellee if**
63 **partial transcript is ordered.**

64 (1) Request for transcript; time for filing. Within 104 days after filing the notice of
65 appeal, or within 30 days of the notice of appeal where an indigent appellant has
66 a statutory or constitutional right to counsel, the appellant ~~shall~~ must order the
67 transcript(s) online at www.utcourts.gov, specifying the entire proceeding or
68 parts of the proceeding to be transcribed that are not already on file. The
69 appellant ~~shall~~ must serve on the appellee a designation of those parts of the
70 proceeding to be transcribed. ~~If the appellant desires a transcript in a compressed~~
71 ~~format, appellant shall include the request for a compressed format within the~~
72 ~~request for transcript.~~ If no such parts of the proceedings are to be requested,
73 within the same period the appellant ~~shall~~ must file a certificate to that effect
74 with the ~~clerk of the~~ appellate court clerk and serve a copy ~~of that certificate~~ on
75 the appellee.

76 (2) Transcript required of all evidence regarding challenged finding or
77 conclusion. If the appellant intends to ~~urge~~ argue on appeal that a finding or
78 conclusion is unsupported by or is contrary to the evidence, the appellant ~~shall~~
79 must include in the record a transcript of all evidence relevant to such finding or

80 conclusion. Neither the court nor the appellee is obligated to correct appellant's
81 deficiencies in providing the relevant portions of the transcript.

82 (3) Statement of issues; ~~C~~cross-designation by appellee. If the appellant does not
83 order the entire transcript, the appellee may, within ~~10~~4 days after the appellant
84 services ~~of~~ the designation or certificate described in paragraph (e)(1) ~~of this~~
85 ~~rule~~, order the transcript(s) in accordance with (e)(1), and file and serve on the
86 appellant a designation of additional parts to be included.

87 ~~(f)~~(d) **Agreed statement as the record on appeal.** In lieu of the record on appeal as
88 defined in paragraph (a) of this rule, the parties may prepare and sign a statement of
89 the case, showing how the issues presented by the appeal arose and were decided in the
90 trial court and setting forth only so many of the facts averred and proved or sought to
91 be proved as are essential to a decision of the issues presented. If the court deems ~~-~~ the
92 statement complete and accurate ~~conforms to the truth~~, it, ~~-~~ together with such additions
93 as the trial court may consider necessary fully to present the issues raised by the appeal,
94 ~~shall~~ will be approved by the trial court. The ~~clerk of the~~ trial court clerk shall will
95 transmit the statement to the ~~clerk of the~~ appellate court clerk within the time
96 prescribed by Rule 12(b)(2). The ~~clerk of the~~ trial court clerk shall will transmit the
97 record index of the record to the ~~clerk of the~~ appellate court clerk ~~up~~ upon the trial court's
98 approval of the statement ~~by the trial court~~.

99 ~~(g)~~(e) **Statement of evidence or proceedings when no report was made or when**
100 **transcript is unavailable.** If no report of the evidence or proceedings at a hearing or
101 trial was made, or if a transcript is unavailable, or if the appellant is impecunious and
102 unable to afford a transcript in a civil case, the appellant may prepare a statement of the
103 evidence or proceedings from the best available means, including recollection. The
104 statement ~~shall~~ must be served on the appellee, who may serve objections or propose
105 amendments within ~~10~~4 days after service. The statement and any objections or
106 proposed amendments ~~shall~~ must be submitted to the trial court for resolution, and the
107 trial court clerk will conform the record to the trial court's resolution. ~~for settlement~~

108 ~~and approval and, as settled and approved, shall be included by the clerk of the trial~~
109 ~~court in the record on appeal.~~

110 ~~(h)g~~ Supplementing or Correction or modification ~~ing~~ of the record.

111 (1) If any ~~difference-dispute~~ arises as to whether the record ~~truly discloses what~~
112 ~~occurred in the trial court~~ is complete and accurate, the ~~difference-dispute shall~~
113 ~~may~~ be submitted to and ~~resolved~~ settled by the ~~at~~ trial court. ~~The trial court will~~
114 ~~ensure that~~ and the record ~~made to conform to the truth~~ accurately reflects the
115 ~~proceedings before the trial court, including by entering any necessary findings~~
116 ~~to resolve the dispute.~~

117 (2) If anything material to either party is ~~omitted from or~~ misstated ~~or is omitted~~
118 ~~from~~ in the record by error ~~of the trial court or court personnel~~, by accident, or
119 because the appellant did not order a transcript of proceedings that the appellee
120 needs to respond to issues raised in ~~appellant's brief~~ ~~the Brief of Appellant~~, ~~the~~
121 ~~parties by stipulation, the trial court, or the appellate court, either before or after~~
122 ~~the record is transmitted, may direct that~~ the omission or misstatement ~~may~~ be
123 corrected and, ~~if necessary, that~~ a supplemental record ~~may~~ be ~~certified~~ created
124 ~~and forwarded~~ ~~and transmitted~~:

125 (A) on stipulation of the parties;

126 (B) by the trial court before or after the record has been forwarded; or

127 (C) by the appellate court on a motion from a party.

128 (3) The moving party, or the court if it is acting on its own initiative, ~~shall~~ must
129 serve on the parties a statement of the proposed changes. Within ~~10~~ 14 days after
130 service, any party may serve objections to the proposed changes. ~~All other~~
131 ~~questions as to the form and content of the record shall be presented to the~~
132 ~~appellate court.~~